

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:19-CV-509-D

SYNGENTA CROP PROTECTION, LLC,)
)
Plaintiff,)
)
v.)
)
ATTICUS, LLC,)
)
Defendant.)

ORDER

This matter is before the court on the following motions, which have been referred to the undersigned for disposition pursuant to 28 U.S.C. § 636(b)(1)(A) by the Honorable James C. Dever III, United States District Judge:

1. Defendant's Motion for Leave to File Amended Answer and Counterclaims [DE # 56];

2. Defendant's Motion to Seal portions of Exhibits 1 and 2 to Defendant's Motion for Leave to File Amended Answer and Counterclaims [DE #60]; and

3. Plaintiff's Motion to Seal portions of Exhibits 1 and 2 o Defendant's Motion for Leave to File Amended Answer and Counterclaims [DE #67].

Plaintiff filed a response stating it does not oppose Defendant's motion to amend its answer and counterclaims, and Defendant has replied. Neither party opposes the motions to seal.

DISCUSSION

I. Motion to Amend

Rule 15 of the Federal Rules of Civil Procedure generally governs the amendment of pleadings. Rule 15 provides that leave to amend a pleading should freely be given when justice so requires. Fed. R. Civ. P. 15(a)(2). Amendment should be denied only where it “would be prejudicial to the opposing party, there has been bad faith on the part of the moving party,” or amendment would be futile. *Laber v. Harvey*, 438 F.3d 404, 426 (4th Cir. 2006) (en banc) (quoting *Johnson v. Oroweat Foods Co.*, 785 F.2d 503, 509 (4th Cir. 1986)).

Plaintiff having consented and there having been no showing of bad faith, undue prejudice or futility, the court determines that Defendant should be granted leave to amend its answer and counterclaims.

II. Motions to Seal

Plaintiff and Defendant each move to seal portions of the exhibits to Defendant’s motion for leave to amend. They argue these exhibits contain sensitive business information of both parties, including confidential business plans, financial information, and sensitive business agreements with third parties, as well as non-public, trade secret information belonging to non-parties. Previously, this court granted a motion to seal portions of Defendant’s Answer and Counterclaims on substantially similar grounds. (*See* Order Granting Mot. Seal [DE #49].)

For the reasons set forth in the parties’ motions and supporting memoranda, the court finds that the public’s common law right of access is outweighed by the

interests of the parties and non-parties in protecting against the disclosure of such sensitive business information and trade secrets. *In re Knight Publ'g Co.*, 743 F.2d 231 (4th Cir. 1984). Public notice of the requests to seal and a reasonable opportunity to object have been provided by the filing of the parties' motions, and no objections have been filed with the court. Furthermore, the parties seek only to redact portions of the exhibits, which appears to be the least drastic measure to protect the confidential business information and trade secrets implicated.

CONCLUSION

For the foregoing reasons, it is hereby ORDERED as follows:

1. Defendant's Motion to Seal [DE #60] is GRANTED. Exhibits 1 and 2 to Defendant's Motion for Leave to File Amended Answer and Counterclaims [DE #57 and #58] shall be SEALED.

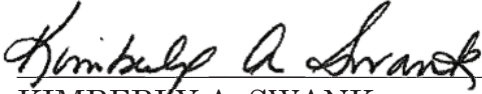
2. Plaintiff's Motion to Seal [DE #67] is GRANTED. The redacted versions of Exhibits 1 and 2 filed by Defendant [DE #61 and #62] shall be SEALED. Redacted versions of Exhibits 1 and 2 to Defendant's Motion for Leave to File Amended Answer and Counterclaims have been submitted with Plaintiff's Memorandum in Support of its Motion to Seal and are publicly available on the court's docket. (*See* Exs. 1 [DE #68-2], 2 [DE #68-3].)

3. Defendant's Motion for Leave to File Amended Answer and Counterclaims [DE # 56] is GRANTED. Within fourteen (14) days of the date of this order, Defendant shall file (i) under seal an unredacted version of its Amended

Answer and Counterclaims; and (ii) a publicly available, redacted version of its Amended Answer and Counterclaims.

4. Plaintiff shall answer or otherwise respond to Defendant's Amended Answer and Counterclaims as allowed by the Federal Rules of Civil Procedure.

This 25th day of June 2021.



KIMBERLY A. SWANK
United States Magistrate Judge